

**ARIZONA JUDICIAL COUNCIL=S**  
**COMMITTEE ON LIMITED JURISDICTION COURTS**

Arizona State Courts Building  
Conference Room 119A & B  
Phoenix, AZ 85007  
September 29, 2004

**Members Attending:**

Honorable R. Michael Traynor, Chair  
Honorable James P. Angiulo  
Honorable Ted W. Armbruster  
Mr. Daniel Carrion  
Ms. Faye Coakley  
Honorable Thomas L. Chotena  
Ms. Debra Hall  
Ms. Joan Harphant

Mr. Don Jacobson  
Honorable R. Wayne Johnson  
Honorable Nicole Laurin  
Honorable Marie Lorona  
Honorable Kathy McCoy  
Honorable Antonio Riojas, Jr.  
Mr. James Scorza  
Honorable Jose Tafoya

**Absent Members:** (excused)

Honorable John Kennedy  
Mr. Richard Fincher

Honorable Linda Hale  
Ms. Charlotte Holmes

**Staff:**

Ms. Susan Pickard

Ms. Valerie Tillman

**Presenters/Guests:**

Mr. Mohyeddin Abdulaziz  
Mr. Tom Augherton  
Ms. Kathy Barrett  
Mr. David Benton  
Ms. Janet Cornell  
Mr. Mike DiMarco  
Ms. Julie Dybas  
Mr. Greg Eades  
Honorable Elizabeth Finn

Ms. Page Gonzales  
Ms. Jennifer Greene  
Mr. Karl Heckart  
Ms. Patience Huntwork  
Mr. Bob James  
Ms. Karen Kretschman  
Ms. Debbie Olsen  
Ms. Janet Scheiderer  
Ms. Jamie Sears  
Mr. Ted Wilson

**REGULAR BUSINESS**

1. CALL TO ORDER

With a quorum present, Judge Traynor called the meeting to order at 10:05 a.m.

Judge Traynor welcomed the new and returning members and added a special thank you to former members for their dedication and service noting their expertise will be missed.

Judge Traynor indicated the subcommittee sign-up list on the rear table asking for volunteers.

Members were asked to review the Membership List and forward their updates/changes to Ms. Pickard.

2. APPROVAL OF MAY 19, 2004, MEETING MINUTES

Judge Traynor asked if there were any changes or corrections to the May LJC meeting minutes. No corrections were made.

**Motion:** Motion was made by Ms. Harphant and seconded by Judge Riojas **to approve the minutes for the May 19, 2004 LJC meeting** as presented. Motion passed unanimously.

## INFORMATION/POTENTIAL ACTION ITEMS

### 3. RULE PETITION

Ms. Patience Huntwork presented information on Pending and Proposed Rules.

The court=s rule agenda for September 28, is as follows:

- X R-00-0011- Rule 42, Arizona Rules of the Supreme Court - denied.
- \$ R-02-0012- Rule 53, Arizona Rules of Civil Procedure - Experimental Rule continued in effect until June 30, 2005.
- \$ R-02-0026 - Rule 6, Maricopa County Superior Court Local Rules -Experimental Rule continued in effect until June 30, 2005.
- \$ R-03-0027 - Rules 4.2 & 14.3, Rules of Criminal Procedure - A petition filed by Judge Anagnost proposes amending the time for appointing counsel for misdemeanor cases from the initial appearance, to the arraignment or to the pretrial conference - continued.  
Second amendment - continued.
- \$ R-03-0028 - Rules 3.1, 3.2, 3.4, 26.12, 27.5 Arizona Rules of Criminal Procedure regarding warrants and summonses - continued.  
Second amendment continued.
- \$ R-03-0032 - Judicial Canon 5A(1)(c), Rule 81, Rules of Supreme Court - denied.
- \$ R-04-0004 - Rules 45(a)(3) & 45(b), Rules of Civil Procedure - To allow attorneys to issue and sign subpoenas - continued.
- \$ R-04-0006 - Rule ER 1.13, Arizona Rules of Professional Conduct, Rule 42, Rules of The Supreme Court - adopted, effective December 1, 2004.
- \$ R-04-0010 - Rule 58(e), Arizona Rules of Civil Procedure - adopted, effective December 1, 2004.
- \$ R-04-0012 - Promulgating Rule 7.2, Rules of Civil Procedure - adding Rule 7.2 providing for pre-trial resolution of evidentiary issues through Motions in Limine - adopted, effective December 1, 2004.
- \$ R-04-0013 - Rules 32, 34, 45, & 64, Rules of The Supreme Court -adopted, effective December 1, 2004.
- \$ R-04-0015 - Rule 15.1, Rules of Criminal Procedure -adopted as modified, effective as of the date of signing, with a comment period to follow. Those who wish to comment should address whether implementation of the amendment in actual practice is furthering the amendment=s goals. Comments due April 30, 2005.
- \$ R-04-0017 - Rule 88(B), Arizona Rules of Juvenile Procedure - adopted, effective December 1, 2004.
- \$ R-04-0019 - Rule 10, Maricopa County Superior Court Local Rules - approved, effective November 1, 2004.
- \$ R-04-0020 - New Rule 29, Pima County Superior Court Local Rules -approved, effective November 1, 2004.
- \$ R-04-0022 - Rule 44, Arizona Rules of The Supreme Court - circulated for comment. Comments due November 24, 2004.
- \$ R-04-0023 - Rules 9 & 16, Judicial Conduct Rules - A petition to amend terminology and Rules 9 & 16 - circulated for comment. Comments are due November 24, 2004.
- \$ R-04-0024 - Rules 16 & 64.1, Arizona Rules of Civil Procedure - circulated for comment.

Comments are due November 24, 2004.

The next Rules Agenda will be January 18, 2005.

4. FINES, FEES, RESTITUTION ENFORCEMENT (FARE) PROGRAM

Mr. Mike DiMarco (AOC) presented an update on the FARE Program.

- \$ Completed the first year of the FARE Program with 3.1 million dollars collected.
  - \$ \$2.1 million from FARE Interim courts (Tucson and Show Low Municipal) and Flagstaff Municipal Court for the last seven months.
  - \$ \$1M primarily from the Maricopa Justice Courts and Wickenburg Municipal Court and their participation in the backlog collection process of FARE.
- \$ Pay-by-phone (IVR) has come on-line and is available in English and Spanish. Web-based payments are also now available in Spanish.

There have been more than 15,000 payments made in the past year, a majority of those being full payments. Most all cases had prior collection activity, and most date back to the mid 90s (1994 to 1999) with the oldest case from 1988.
- \$ FARE is averaging \$250,000/month or \$2.4 - 2.7M with the three courts in Interim FARE.
- \$ Pay-by-phone (IVR) collected about \$171,000 in the first eight months of operations. Almost \$88,000 or 51% of that has been collected in the last two and one half months.
- \$ FARE is maintaining the same 22% rate collected from out-of-state defendants.
- \$ On August 6, the TTEAP (Traffic Ticket and Enforcement Assistant Program) was brought on-line for Flagstaff cases. Seven hundred fifty registrations were put on hold. On the August 10, MVD (Motor Vehicle Division) sent out letters, and on August 13, FARE had the first registration release.
- \$ To date, 32 registration holds have been released. On October 8, Tucson will be adding 26,000 cases which are eligible for TTEAP.
- \$ Implementation is underway to bring more courts into the new Interim FARE backlog collection process. FARE has a tentative schedule for AZTEC courts by the end of the year.
- \$ The first phase of that will be the rollout with AZTEC 1.241 (AZTEC courts only). Training in 1.241 and FARE is a part of the deployment process. Two data integrity analysts will work with the courts to assist with data cleanup by identifying cases that may not be eligible for FARE under the current qualification criteria. Courts will receive two reports Aqualified@ and Adisqualified.@ The cases that qualify will immediately be eligible for FARE. Those cases that have problems will be eligible for corrections, when corrected then will go to FARE. Courts will be responsible for making corrections to the actual data. The third team member to come on board will be a programmer to develop scripts to help where possible make cases eligible for the FARE program.
- \$ Life cycle testing began in July for Full FARE; scheduled completion is anticipated in the first quarter of 2005. Phoenix Municipal Court is proving ground for the Full FARE model.

5. 2004 LEGISLATIVE COURT IMPACT REPORT

Ms. Karen Kretschman (AOC) gave an update on the Legislative Court Impact Report produced by

the Court Services Division.

- \$ The Legislative Court Impact Report is located on the web at:  
<http://www.supreme.sp.state.az.us/courtserv/2004Legislation.htm>
- \$ The first part of the report is a general index of all the bills that are included in the report by topic and number. (Chapter and bill number). The second part of the report is the actual page-by-page summary of each bill that was chaptered in the last legislative session. This report is different from the report issued by AOC Legislative Officers which is submitted to courts in hard copy and contains a general synopsis of each bill that was passed. The Legislative Court Impact Report compares the analysis of the bill with how the bill will impact the courts and what is needed to implement it.

Ms. Kretschman also added an update on the Alternative Dispute Resolution Fund (ADR).

- \$ The ABA is sponsoring a conference from November 29 through December 3 at the Judicial Education Center, with speakers and well-know mediators from all over the country presenting a 40-hour basic mediation training. Judges will learn techniques, necessary steps and how to conduct meditations. In addition, judges will receive instructions on the appropriate ways and ideas to use mediation skills in the court.
- \$ The Education Services Division sent a scholarship notice to all judges regarding this conference with a registration form on the back. To apply for the scholarship, the registration form must be submitted to Karen Kretschman. Upon the award, the AOC will register the awardee and make payment to the American Bar Association (ABA)
- \$ Three \$800 registration scholarships have been awarded to justices of the peace for the week-long Mediation for Judges Conference (Judges Kennedy, Lundy and Roberts). Awardees are responsible for travel, hotel and meals, etc.

## 16. 2005-2010 ARIZONA JUDICIAL BRANCH STRATEGIC AGENDA

Mr. Tom Augherton, AOC Public Information Officer gave a brief presentation on Arizona Judicial Branch Strategic Agenda.

- \$ The first Judicial Branch Strategic Agenda was instituted by Chief Justice Thomas Zlaket. The five-year program known as AJustice 2002" was continued by Chief Justice Jones and became known as the AJustice for a Better Arizona® (2002 -2005). The third strategic agenda will cover the period of 2005-2010 period.
- \$ The purpose of the strategic agenda is to assist with budget preparation, and allocation of FTEs and court resources. The strategic agenda provides for a disciplined transition and continuity in planning between administrations, along with opportunities for input from throughout Judiciary.
- \$ On October 14, a request will be submitted to the Arizona Judicial Council (AJC) to adopt an executive summary review committee. This committee will be chaired by the Vice Chief Justice Ruth McGregor.
- \$ On December 10, all the comments submitted via e-mail to [info@supreme.sp.state.az.us](mailto:info@supreme.sp.state.az.us) will be presented to the AJC.
- \$ From January through February 2005, the Executive Summary Review Committee will meet to review the input.
- \$ The strategic agenda will be submitted for adoption to the AJC on March 30. Upon adoption, the strategic agenda will become the operating document for the next five years.

- § Strategic agenda goals:
  1. Protection Children, Families and Communities
  2. Providing Access to Swift and Fair Justice
  3. Connection with the Community
  4. Being Accountable
  5. Serving the Public by Improving the Legal Profession
- § Suggestions/comments may be submitted to [info@supreme.sp.state.az.us](mailto:info@supreme.sp.state.az.us) concerning the 2005-2010 Judicial Branch Strategic Agenda.

## 7. ARIZONA JUDICIAL COUNCIL PROPOSED LEGISLATIVE PACKAGE

Mr. David Benton and Ms. Page Gonzales presented the proposed Arizona Judicial Council Legislative Package.

- § The new session of the state legislature will begin on the second Monday as prescribed in the state constitution, January 10, 2005. Election results have provided many new members of the legislature, new officers and leadership in the senate and the house of representatives and new Judiciary Committee chairs and members in both houses.
- § In the 2004 session, there were 37 bills proposing changes to the state judiciary, ranging from the minor to the substantial. The policy proposal, which if passed that could have had the most significant effect on the courts, was a bill that transferred the rule-making authority from the state judiciary and to the legislature.
- § The process in the Judiciary is very similar to the process at the state legislature. Legislative proposals are solicited by the AOC staff over the course of the summer and received in the early fall. As staff collects the proposals, they research and portion out the proposals to committees based on jurisdiction and areas of interests. Staff has received 26 proposals so far this year.

*Votes indicated below are in the following order, Include, Do Not Include, Include as Option A and Include as Option B.*

### **Consequences of Nonpayment of Fines, Fees, Restitution or Incarceration Costs**

- § Would amend A.R.S. ' 13-810 to allow the court to require the defendant to show cause or the clerk of the magistrate or justice court may swear out a criminal complaint for a violation before the presiding judge of the court.
- § Additionally, this amendment would allow a judge to authorize the issuance of a summons or warrant for arrest for the defendant=s appearance. A criminal violation of this section is proposed to be a Class 2 Misdemeanor.

**Vote:** The committee voted to recommend that the AJC NOT include this proposal in the Legislative Package. 0-15-0-0

### **Drug Court**

- \$ Appropriates funds for drug court to provide treatment, staff and drug-testing services.
- \$ The concern over where the funds would be appropriated from was noted.
- \$ The committee provided an Option A to include language in the proposal to specify general funds and not an increase to or a new fee/fine/surcharge.
- Vote:** The committee voted to recommend that the AJC include Option A of this proposal in the Legislative Package. 2-0-13-0

### **Jury Service Reform**

- \$ This proposal would make various revisions, both substantive and technical, to recently passed jury reform legislation addressing excuses and documentation.
- \$ This proposal would allow the jury commissioner more discretion.
- \$ The issues are age, transportation, jurisdiction, documentation, good cause.
- Vote:** The committee unanimously recommended the AJC include this proposal in the Legislative Package. 15-0-0-0

### **Extreme DUI Offender Monitoring**

- \$ This proposal is a request for \$120,000 for Maricopa County=s adult probation department for monitoring bracelets for extreme DUI offenders.
- \$ The committee supports the concept, but did not believe a budget issue for one county would be appropriate for the AJC Legislative Package.
- Vote:** The committee unanimously recommended the AJC NOT include this proposal in the Legislative Package. 0-15-0-0

### **Mental Health Examinations; Payment**

- \$ This proposal would make defendants responsible for paying for mental health examination to determine competency unless the court finds the defendant indigent.
- \$ The concerns raised about the proposal ranged from possible proceeding delays caused by nonpayment, the inadvertent exclusion of limited jurisdiction courts, defendant versus court payment arrangements and legislative history of the original mandate.
- Vote:** The committee recommended that the AJC include this proposal in the Legislative Package. 10-5-0-0

Judge Traynor informed the committee that during the legislative session, teleconferences are held every Friday at noon. The legislative officers present bills of interest to limited jurisdiction courts. Members are encouraged to attend the teleconferences to give input because of the limited time frame to respond to legislators.

Ms. Debra Hall added information about a legislative proposal regarding ASeizure and Forfeiture of Property.@ Currently, probation officers have the authority to search and seize a defendant=s property if they are on probation. If an item is found that violates the terms and conditions of probation it may be seized. A mechanism for the disposition of the seized

property that is legal nor used as evidence does not exist.

8. BUILDING A PAPERLESS@ COURT: E-FILING PLUS

Mr. Mohyeddin Abdulaziz, Director of Information Technology at the University of Arizona, discussed the advantages of e-filing and how it works. He is a member of the team that designed and developed the paperless filing and docketing system currently used in the Arizona Court of Appeals, Division Two.

9. ARIZONA CODE OF JUDICIAL ADMINISTRATION (ACJA): VICTIMS= RIGHTS/ RESTITUTION

Mr. Ted Wilson and Ms. Debbie Olsen (AOC) presented the proposed ACJA Victims= Rights Requirements for Probation Personnel and Administration of Victims= Rights.

§ The old Administrative Order is separated into two code sections; '6-103: Victims= Right Requirements for Probation Personnel and '5-204: Administration of Victims= Rights.

§ The two proposed sections of the Arizona Code of Judicial Administration are presented to more clearly outline requirements for victim services.

1. '6-103 focuses on the responsibilities of adult and juvenile probation personnel in preserving and protecting the rights of victims.

2. '5-204 focuses on the role and responsibilities of courts in preserving and protecting victims= rights in the justice process and processing of victims restitution.

§ Judge Traynor noted that '5-204(E) specifically applies to the superior court and suggested the addition of in Superior Court after At the commencement of the criminal docket. . . He continued that the statute specifies a superior court.

§ In both code sections, victim is defined using the definitions found in the Arizona Constitution and Arizona Revised Statutes. By including both definitions (A.R.S. '13-4210 regarding the Crime Victim Account which applies to felonies only), misdemeanor offenses are excluded from the definition. It was suggested that this be corrected by adding the definition for criminal offense from A.R.S. '13-4401.

**Motion:** Mr. Carrion moved and Ms. Harphant seconded the motion that the committee recommend approval of both code sections with suggested amendments. Passed unanimously.

10. COMMITTEE ON TECHNOLOGY

Mr. Karl Heckart provided members with an update on the Committee on Technology (COT).

§ At the last COT the members discussed a plan for next year. COT declared it was time for a new case management system and a need to reinvest in a system(s) for the courts. COT established a technology workgroup and last spring proposed technology standards, which were later adopted by AJC. The technology standards lead toward the rebuilding of the case management systems.

§ The iCIS system was taken to Pima County, and began the rewrite process into .net. The new general jurisdiction system is expected next summer. Pima County will

- implement the system in criminal cases first.
- § Attention has been focused on the case management system currently being used by Tempe Municipal Courts as the new limited jurisdiction court system because of its functionality and highly productivity. The Tempe system was in desperate need of a replacement and they were going to invest more than a million dollars to rebuild their system. COT allocated about \$250,000 as state investment toward this effort. The system will be built on a concept called Acomponent technology@ which means rebuilding fairly standard parts that can be reused across systems.
- § Attention is also being given to the juvenile system (JOLTS) that has been around for more than 20 years with the same component parts.
- § Mr. Heckart explained that FARE tool kits are being prepared to assist courts with data analysis.

## 11. CIDVC FORMS WORKGROUP

Mr. Bob James and Judge Finn presented new protective order and ancillary forms for approval.

- § These forms were designed to address concerns raised by law enforcement officials, victim advocates and prosecutors regarding the enforceability of court orders.
- § The forms provided for the committee=s review were consistent with Rule 10(d), Rules of Civil Procedure, yet some remained as one-page forms.
- § On the Order of Protection specifically, one paragraph was split into two due to the interpretation of Brady stating Ait is possible to fashion an order that would not automatically invoke Brady after a hearing@ and Emerson which gives judicial discretion to invoke Brady.
- § The CIDVC Domestic Forms Workgroup reviewed the form to allow a judicial officer to make a lesser finding that would not invoke Brady.
- § Concerns of note: using lived together now or before rather than past or present live-in, ACommit No Crimes. [ ] If checked, . . .@ and notarization of the Acceptance of Service.

**Motion:** Ms. Harphant moved to recommend approval of the protective order and ancillary form to AJC. The motion was seconded by Ms. Coakley. Motion passed unanimously.

## 12. CODE STANDARDIZATION

Ms. Janet Scheiderer provided the members with an update on the Code Standardization Project.

- § Through the Commission on Technology, a general statewide agreement has been reached that the success of major initiatives in Arizona=s court for a range of automation projects, such as statistical reporting, case management reporting, public



- access, and sharing information with other government agencies is dependent on the consistency and quality of codes used for entry of data into the automated system.
- \$ Arizona has 183 courts, some courts that are recently forming in small municipalities, 145 courts are on AZTEC statewide case management system.
- \$ Not having standardized codes taxes Court Services Division staff with the responsibility of entering new charges and fines into the system at the end of each legislative session which can take days. If standardized codes were in place updates could be automated and take only a few hours.
- \$ The Commission on Technology has directed the Court Services Division to standardize the codes and business practices within Arizona=s courts. To that end a consultant, Greacen and Associates, was hired to work with a committee and users, general and limited jurisdictions. The committee consists of court administrators, caseflow managers, and clerks who on a regular basis work with the consultant to develop standardized codes.
- \$ The committee will be working with limited jurisdiction courts on financial codes for the next three months.
- \$ Letters were sent to members of the Limited Jurisdiction Courts Committee to recruit members to work on the Code Standardization Committee. The first is a meeting on Monday (October 4 with a follow-up meeting on October 26).
- \$ The new codes set will be used, not in the current system, but with the new case management systems.
- \$ A governance structure is being established and will determine when new codes can be developed.

### 13. LIMITED JURISDICTION LEGAL WORKGROUP

Ms. Julie Dybas (AOC) reported on the limited jurisdiction legal workgroup.

- \$ The purpose of the Limited Jurisdiction Legal Workgroup is to provide legal, procedural or administrative analysis and advice to the Court Services Division (CSD) when operational and legal issues arise.
- \$ Types of issues that are referred to the legal workgroup are those which cannot be resolved through legal analysis because the law is unclear, involve conflicting practices throughout the state, cannot be resolved through legal analysis because a rule or statute change is needed, or involve significant inconsistencies between the law and practice in many courts.
- \$ Issues may also be referred to the workgroup through the Court Answer Line (CAL) questions and the Judicial Hotline.
- \$ The legal workgroup meets monthly and consists of staff attorneys, CSD managers and court specialists. This workgroup has representation from municipal and justice courts, primarily through judges and administrators.
- \$ Additionally, the CSD - Court Operations Unit conducts court operational reviews throughout the state.
- \$ The 2004 ACommon Operational Review Findings@ can be found on the AJIN web

site. The purpose is to make courts aware of issues that are being found in other courts so that they may take the findings into consideration for a self-review. The AJIN link to the findings is:

<http://AJIN/ctserv/counit/2004CommonFind.htm>

14. COMMITTEE ON KEEPING THE RECORD

Judge Antonio Riojas provided the members with an update on the Committee on Keeping the Record.

§ The Committee was established by the supreme court to establish standards for the implementing digital recording equipment and any future technology in the courtroom.

§ The standards which the committee is identifying are equipment, transcripts, formatting and training.

**OTHER BUSINESS**

15. GOOD OF THE ORDER/CALL TO THE PUBLIC

A call for public comment was made. No comments were made.

16. ADJOURNMENT

**Motion:** The motion was made and seconded **to adjourn the meeting at 3:05 p.m.** Passed unanimously.

17. NEXT MEETING

The next LJC meeting will be held:

**Wednesday, November 17, 2004**

State Courts Building

1501 W. Washington St.

Conference Rooms 119 A&B

Respectfully submitted,

Ms. Susan Pickard

Staff to the Committee on Limited Jurisdiction Courts